<u>REMARKS</u>

No claims are added, cancelled, or amended. Hence, Claims 1-40 are pending in the

application.

I.   SUMMARY OF THE REJECTIONS

Claims 1-5 and 21-25 stand rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over U.S. Patent Publication No. 2002/0143735 to Ayi et al. ("*Ayi*") in view of

U.S. Patent No. 5,787,428 issued to Hart ("*Hart*"). This rejection is respectfully traversed.

Claims 6-20 and 26-40 stand rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over U.S. Patent No. 5,859,966 issued to Hayman et al. ("*Hayman*") in view of

Ayi. This rejection is respectfully traversed.

II.   THE REJECTIONS BASED ON THE CITED ART

A.   CLAIMS 1-5 AND 21-25

Claims 1-5 and 21-25 stand rejected under 35 U.S.C. § 103(a) as allegedly being

unpatentable over *Ayi* in view of *Hart*. It is the Office Action's position that the evidence

submitted is insufficient to establish a reduction to practice of the invention according to

Claims 1-5 and 21-25 prior to the effective date of *Ayi* (page 2). The Office Action contends

that the subject declaration amounts to a general allegation and that a statement of the facts

demonstrating the correctness of the declaration by the inventors to the effect that the invention

was reduced to practice prior to the effective date of *Ayi* (page 2). It is respectfully submitted

that this is incorrect.

The Office Action quoted MPEP § 715.02, which states: "If the affidavit contains <u>facts</u>

<u>showing a completion of the invention commensurate with the extent of the invention as</u>

<u>claimed</u> is shown in the reference or activity, the affidavit or declaration is sufficient" (same

emphasis as in Office Action). The present declaration <u>satisfies</u> this criteria, i.e., the declaration

contains facts showing a completion of the invention commensurate with the extent of the

invention as claimed. For example, the declaration states:

> 3.   We conceived and **reduced to practice an implementation of claims 1 – 5 and 21 - 25** before the effective filing date of Ayi.

> 4.   We participated on a team that developed the implementation of **claims 1 – 5 and 21 – 25** that is incorporated into an Oracle™ database server product. After the design phase of the development, **successful tests were run to show that the implementation worked according to claims 1 – 5 and 21 - 25.** These tests, which were conducted using standard internal test processes and procedures, were completed before the effective filing date of Ayi and were carried out in this country.
> (emphasis added)

Therefore, the declaration is **<u>sufficient</u>**.

On pages 3-4, the Office Action stated patent office policy for actual reductions to

practice under 37 CFR § 1.131, which office policy apparently states:

> a.   Testing is required unless operativeness of invention is readily apparent.
> b.   Testing, if required, must be under actual working conditions or realistic simulation of working conditions.
> c.   Test results must be repeatable.

In support of this policy, the Office Action cited MPEP § 2138.05. However, MPEP § 2138.05

pertains to interference practice and 37 CFR 1.131 does not apply in interference proceedings

(see MPEP 2138.01(III)). Neither the CFR nor the MPEP require testing in a Rule 131

declaration. Nevertheless, the inventors stated, in the declaration that "**successful <u>tests</u> were**

run to show that <u>the implementation worked</u> according to claims 1 – 5 and 21 – 25" (¶ 4;

emphasis added). Furthermore, software tests are clearly repeatable. If ¶ 4 of the declaration

was considered by the Examiner, then it is appears from this appeal for testing of the invention

that the Examiner might want to personally witness tests being run. However, there is no such

requirement. Instead, MPEP § 715.07(I) <u>requires</u> examiners to "<u>consider all of the *evidence*</u>

presented in its entirety, **including the...declarations**" (emphasis added). Thus, because the declaration is evidence of a reduction to practice of the invention, the declaration must be considered.

Finally, the Office Action stated that "the examiner cannot determine whether or not the reduced to practice invention is commensurate with the claims **without the nexus between the claim and the Exhibit. As a result, the Examiner has no basis to approve the affidavit**" (emphasis in Office Action). It is respectfully submitted that the Examiner has ample basis to approve the declaration.

First, the statements by the inventors in the subject declaration are not hollow assertions. Rather, they are <u>specific</u> statements of <u>fact</u>. (Again see MPEP § 715.07(I) which states that evidence includes the declaration.) As such, the statements are considered evidence, each of which cannot be ignored.

Second, the courts have stated that "<u>the PTO is required to accept Rule 131 Affidavits</u> at **<u>face value</u>, and <u>without investigation</u>**" (see, e.g., Herman v. Williams Brooks Shoe Co., 39 USPQ2d 1773, 1777 (S.D. N.Y. 1996); see also Chisum on Patents § 3.08[1][a] (2005); emphasis added). Based on the specific evidence provided in the declaration, the inventors have satisfied their burden to prove that a working implementation of the invention according to Claims 1-5 and 21-25 existed prior to the effective filing date of *Ayi*.

Third, MPEP § 715.07 states, "**An accompanying exhibit need not support all claimed limitations**, provided that any missing limitation is supported by the declaration itself." Indeed, exhibits are not even required by 37 CFR § 1.131(b) or the MPEP. Exhibits A-D are either test script files or test script log files that show results of running the corresponding test script. The exhibits do not provide the actual code. However, neither the CFR nor the MPEP **require <u>code</u> to be submitted** in an exhibit, nor do the CFR and MPEP require a

declaration to state word-for-word each claim limitation. To require a declaration to state word-for-word each claim limitation would be mere form over substance since Applicants may simply recite each claim limitation and state that such claim limitation was implemented before a certain date. Nevertheless, the **inventors have done effectively as much when referring** (1) specifically to Claims 1-5 and 21-25 in ¶ 3, 4, and 9 of the declaration and (2) implicitly in the remaining statements. Therefore, it is odd that the Office Action would assert that "the examiner cannot determine whether or not the reduced to practice invention is commensurate with the claims." Contrary to this assertion in the Office Action, the Applicants have given "a clear explanation of the exhibits [in the declaration] pointing out exactly what facts are established and relied on by applicant." MPEP § 715.07.

As stated above, the Patent Office is required to accept Rule 131 declarations at face value, without investigation. Based on the foregoing, it is respectfully submitted that the declaration and the accompanying exhibits are sufficient to prove a reduction to practice of the invention. Accordingly, reconsideration of the declaration is respectfully requested.

B.   CLAIMS 6-20 AND 26-40

Claims 6-20 and 26-40 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Hayman* in view of *Ayi*.

1.   *Claims 6 and 26*

Claims 6 and 26 recite:

registering, with a database management system, one or more packages of routines,
        wherein each package of said one or more packages implements a security
        model that supports a model set of one or more policies of the database policy
        set and said each package includes an access mediation routine;
associating a first policy of a first model set in a first package with a first table
        within the database system; and

> invoking the access mediation routine in the first package for determining whether to allow operation on data in the first table based on the first policy. (emphasis added)

Claims 6 and 26 require "registering, with a database management system … one or more packages of routines, wherein each package … implements a security model … and said each package includes an access mediation routine," and "invoking the access mediation routine [to determine] … whether to allow operation on data in the first table." This feature is not disclosed or suggested by *Hayman*.

First, the Office Action alleges that the "applicant admits that registering one or more packages of routines are well known in the art" on page 17 of the Specification. This is plainly incorrect. The italicized sentence below is taken completely out of context. The applicable language from the Specification states:

> In step 212 a first security model package is registered with the security manager 132 of the database server 130. In some embodiments, the database security administrator designs and develops the security model package. In some embodiments the security model package is provided by the developer of the security manager 132, or is provided by a third party vendor, so that a database administrator does not have to develop her own package. For example, a security model package 110 that supports a compartmented security model is provided by the developer of the security manager, and the database security administrator registers the package 110 with the database server 130. *Any manner known in the art for registering the package at the time the package is registered can be used.* **For example, the database security administrator types in a name of the file containing the package in a dialog box of a graphical user interface for the security manager 132** of the database server 130 (page 17, paragraph 57) (emphasis added).

Clearly, what is meant by "any manner known in the art for registering the package at the time the package is registered can be used" is that the manner in which a package is **identified** for being registered is not important (e.g., dialog box of a GUI or DOS command). However, nothing in the Specification implies or suggests that previous database systems actually register

one or more packages of routines as claimed (i.e., wherein each package implements a security model and includes an access mediation routine).

The Office Action also asserts that "Hayman teaches incorporate[ing] and install[ing] security software which inherently includes registering one or more packages of routines." The paragraphs cited by the Office Action in support of this assertion state that a "Session Monitor has been designed to be extensible, in the sense that the owner of the security system can incorporate their own software to change access mode of a user or administrator" (col. 8, line 66 – col. 9, line 2). Thus, the Office Action equates the Session Monitor with a package of routines.

The Session Monitor, however, "controls the manner in which a user or administrator initially gains access to the system, and the manner in which a user or administrator changes from their current mode of access to a different mode (for example, from user to administrator)" (col. 8, lines 55-60), whereas Claim 6 requires that a policy from a package of routines is associated with a table within the database system. **There is no teaching or suggestion in** *Hayman* **that the Session Monitor, or any component thereof, is associated with a table within a database system.**

The Office Action also cites paragraphs in *Hayman* that describe a Reference Monitor for teaching the first step of Claim 6. "The Reference Monitor is the entity that mediates all requests for access to an object by a subject, and thus controls whether, and to what extent, the subject is granted access to the object" (col. 9, lines 56-59). However, the reference does not disclose that this may be registered so that it can be customized and implemented by the user. Indeed, it was described in a version of Data General's security system as being "tightly integrated with Data General's operating system" (col. 1, lines 26-28). This indicates that customization is not readily possible and that the **Reference Monitor is actually an embedded**

native software component of the security system, not a separate module that needs to be registered. Again, this is all in contradiction to the elements of Claims 6 and 26.

The Office Action also alleges that *Hayman* col. 5, lines 18-60 teaches "associating a first policy of a first model set in a first package with" an object. To be clear, instead of an object, Claim 6 states that the first policy is associated with "a first table within the database system". The Office Action equates the "labels" described in the above cited portion of *Hayman* with the "first policy" of Claim 6. However, the "first policy" of Claim 6 is a policy of a model set in a package **that is registered with a database management system. No where does *Hayman* teach or suggest in the above cited portion that a "label" is registered with a database management system**.

Because *Hayman* fails to teach or suggest that a "first policy" is part of a package that is associated with an object, much less a table, *Hayman* also fails to teach or suggest "invoking the access mediation routine in the first package for determining whether to allow operation on data…**based on the first policy**".

Remember, regardless of the above cited deficiency in the Office Action, the first requirement of Claims 6 and 26 is "*registering*, with a database management system, one or more *packages of routines*…." These packages of routines are separate from the label-based security policies which govern whether operations can be performed on particular data. This is significant because it allows the routines to be administered and customized separate from the label-based security policies. The *Hayman* reference does not discuss or teach that routines are registered with the database management system. *Hayman* does describe security labels in the form of a capability set that are assigned or placed on an object by the owner of the object. However, these labels cannot in any way be equated to the routines used to support the label-based security policies.

In sum, *Hayman* only discusses the use of security-based labels and not registered routines that may be, for example, customized to affect how those labels are used to determine proper access. The *Hayman* implementation uses non-registerable and native components of an application to implement the policies.

Thus, because *Hayman*, alone or in combination with *Ayi*, does not teach, suggest, or render obvious Claims 6 and 26, it is respectfully submitted that Claims 6 and 26 are patentable over the combination of *Hayman* and *Ayi*. Reconsideration and allowance of Claims 6 and 26 are respectfully requested.

2. *Dependent Claims*

The pending claims not discussed so far (Claims 7-20 and 25-40) are dependent claims that depend on an independent claim that is discussed above. Because each of the dependent claims includes the limitations of claims upon which they depend, the dependent claims are patentable for at least those reasons the claims upon which the dependent claims depend are patentable. Removal of the rejections with respect to the dependent claims and allowance of the dependent claims is respectfully requested. In addition, the dependent claims introduce additional limitations that independently render them patentable. Due to the fundamental difference already identified, a separate discussion of those limitations is not included at this time.

III.   CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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